



2008-125

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Honorable Mike Hill
Member, House of Representatives
2020 Highway 33
Pelham, Alabama 35124-4890

Counties - Roads, Highways and Bridges -
Maintenance - Mutual Aid Agreements -
Shelby County

Counties may enter into an agreement to
maintain roads in the jurisdiction of
another county if the contract is executed
as provided for in sections 11-102-2 and
11-102-3 of the Code of Alabama.

Dear Representative Hill:

This opinion of the Attorney General is issued in response to your
request.

QUESTION

May the Shelby County Commission expend its
public funds to maintain a public highway that will lie
partially within Shelby County and partially within
Jefferson County?

FACTS AND ANALYSIS

Your request states that a developer seeks to build a public connector road
between Shelby County Road 41 and Alabama Highway 119 in anticipation of a
3500 lot development located in Shelby County. Because one-half of this road
will run within the boundaries of Jefferson County, you question whether the
Shelby County Commission has the authority to maintain the segment of the
public connector road located in Jefferson County.

Section 11-102-1 of the Code of Alabama states as follows:

Except as otherwise provided in this chapter or as otherwise prohibited by law, any county or incorporated municipality of the State of Alabama may enter into a written contract with any one or more counties or incorporated municipalities for the *joint exercise of any power or service that state or local law authorizes each of the contracting entities to exercise individually*. For purposes of this chapter, it is sufficient if each of the contracting entities has the authority to exercise or perform the power or service which is the subject of the contract regardless of the manner in which the power or service shall be exercised or performed, provided that at least one of the contracting parties has the authority to exercise the power or service in the manner agreed upon by the parties. The joint contract may provide for the power or service to be exercised by one or more entities on behalf of the others or jointly by the entities.

ALA. CODE § 11-102-1 (emphasis added).

This Office has explained that, "pursuant to section 11-102-1, counties and municipalities in this state, as governmental entities, are authorized to enter into written contracts with other counties and municipalities for the joint exercise of powers and services." Opinion to Honorable Edmund M. Sexton, Sr., Sheriff, Tuscaloosa County, dated March 20, 2003, A.G. No. 2003-106 at 3. The statute requires that each party already have general authority to provide the power or service that is the subject of the contract. Furthermore, "[a]ny agreement or contract between the county and the municipality must meet the specifications and approval requirements of sections 11-102-2 and 11-102-3 of the Code of Alabama." Opinion to Honorable Barry D. Vaughn, Attorney, Talladega County Commission, dated July 21, 2004, A.G. No. 2004-182 at 3.

The *Vaughn* opinion addressed this issue in the context of a road crossing in and out of different jurisdictions, concluding that a county and city may enter into an agreement by which each will maintain roads in the jurisdiction of the other. *Id.* Consistent with that opinion, because counties are authorized to construct and build roads inside their own jurisdictions, they are also authorized to do the same outside their own jurisdictions if the applicable county agrees to their action.

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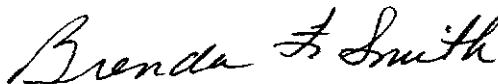
CONCLUSION

Counties may enter into an agreement to maintain roads in the jurisdiction of another county if the contract is executed as provided for in sections 11-102-2 and 11-102-3 of the Code of Alabama.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Ward Beeson of my staff.

Sincerely,

TROY KING
Attorney General
By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH
Chief, Opinions Division

TK/GWB/sa

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